IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.3042 of 2002
SRI LAXMIKANT S/O Late Parmeshwar Pandey, R/O Village/Mohalla-Sabajpura, P.S-Khagaul, Dist-Patna at present posted as Clerk Circle Office, Bikram, P.S-Bikram under District-Patna. ……petitioner

Versus

1.THE STATE OF BIHAR
2.The Commissioner, Patna Division, Patna.
3.District Magistrate, Patna.
4.Additional Collector, Relief, Patna.
5.The Controlling Officer-cum-Executive Magistrate, Patna
6.The Treasurer Officer, Patna.
7.The Deputy Treasurer Officer, Danapur.
8.The Deputy Collector, in-Charge Legal Section, Patna.
9.The Circle Officer, Bikram, P.S-Bikram under Distt-Patna.

For petitioner:- Mr. Prasad, Adv
Mr.S.K. Verma, Adv
For State:- Mr. Dhirendra Kumar, JC to SC-8

4/ 25.11.2008 Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner was earlier awarded punishments pursuant to a departmental enquiry by order dated 7.1.1997 (Annexure-4). He challenged that order before the Commissioner, Patna who interfered with the matter by his order dated 7.9.1998 (Annexure-5).

Before this Court the petitioner has annexed only an earlier enquiry report dated 20th July, 1996 and it has been verbally submitted that after the order of the Commissioner, no further enquiry or investigation was made by the authorities and

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no fresh charge-sheet was framed against two other persons. This grievance is not specifically stated in the writ petition nor has any document been annexed to show that the directions of the Commissioner contained in Annexure-5 were not complied with. On the other hand, the impugned order dated 24th December, 2001 shows that there was an enquiry subsequently against one Poonam Sinha also which appears to be in accordance with the directions of the Commissioner and the enquiry officer found that the charges against Smt. Poonam Sinha were not found proved. This is not the content of the enquiry report in Annexure-6 which is confined only to the petitioner. Hence, prima facie, this Court is satisfied that another enquiry report was also available before the disciplinary authorities.

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Learned counsel for the petitioner has submitted that this Court may not pass order on merits of the writ petition and should give an opportunity to the petitioner to prefer an appeal before appellate authority. Learned counsel for the State has submitted that there is no averment in the writ petition that

petitioner has availed the appellate forum.

In view of the aforesaid prayer on behalf of the petitioner, this writ petition is disposed of with a liberty that if so advised petitioner may prefer an appeal before appellate authority against the impugned order dated 24th December, 2001 passed by District Magistrate, Patna contained in Annexure-7.

It is expected that if such an appeal is preferred, it shall be disposed of expeditiously in accordance with law.

(Shiva Kirti Singh,J.)

Perwez

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